

### **REMARKS**

This responds to the Office Action mailed on February 23, 2009.

Claims 1, 9 and 15 are amended, claims 4 and 12 have been previously canceled, and no claims are added; as a result, claims 1-3, 5-11 and 13-16 remain pending in this application.

### **Interview Summary**

Applicant thanks Examiner Day and Supervising Examiner Shah for the courtesy of a telephone interview on August 24, 2009. The new matter objection to the specification was discussed. It was agreed that Applicant would file a supplemental declaration under 37 C.F.R. 1.132 to address to provide information regarding support and interpretation of the specification regarding the material indicated as new matter in the Office Action. The claims were not discussed therefore there was no agreement regarding the status of the claims.

### **Specification Objection**

The Office Action objected to the specification as introducing new matter. As noted above, Applicant will file a supplemental declaration under 37 C.F.R. 1.132 to address the objection to the specification.

### **§ 112 Rejection of the Claims**

Claims 1-3, 5-11 and 13-16 were rejected under 35 U.S.C. § 112, first paragraph, as lacking adequate description or enablement. In particular, in section 6-1, the Office Action states that removal of the timing string example in Table 6 disables the determination of the coupling strength. Applicant respectfully disagrees. Support for using a timing strength is provided on pages 15, 18, 21, 26-30 of the specification. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 1-3, 5-11 and 13-16.

§ 112 Rejection of the Claims

Claims 1-3, 5-11 and 13-16 were rejected under 35 U.S.C. § 112, first paragraph, as lacking adequate description or enablement. In particular, section 7.1 of the Office Action states that preallocation is described in the specification as allocating processing resources while the claims recite preallocation of “computing resources”, which may include memory or communications resources. Applicant has amended claims 1 and 9 to clarify that processing resources are preallocated. Applicant respectfully submits that the amendment overcomes the rejection, and respectfully requests reconsideration and the withdrawal of the rejection of claims 1-3, 5-11 and 13-16.

§ 101 Rejection of the Claims

Claims 1-3, 5-11 and 13-16 were rejected under 35 U.S.C. § 101 because the invention as disclosed in claims are directed to non-statutory subject matter. The Office Action states that the claims are broad enough to read on systems that contain only communications resources, providing a network hub as an example, and appears to imply that allocating resources in a system having only memory and/or communications resources is not a useful, concrete and tangible result. While Applicant respectfully disagrees that such an allocation is not useful, concrete and tangible, in order to expedite prosecution Applicant has amended claims 1 and 9 to specify that the distributed system includes at least one each of a processor resource, a memory resource and a communications resource. Applicant respectfully submits that the amendment overcomes the argument provided in the Office Action, and that allocation of resources in a distributed system that includes at least one each of a processor resource, a memory resource, and a communications resource is certainly a useful, concrete and tangible result of the claims. Applicant further notes that while a hub itself is not such a distributed system, a hub may be included as a computing resource in a distributed system and may thus be one of the computing resources included with other computing resources in a distributed system.

For all of the above reasons, Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 1-3, 5-11 and 13-16.

Filing Date: October 13, 2000

Title: USING CONSTRAINT-BASED HEURISTICS TO SATISFICE STATIC SOFTWARE PARTITIONING AND ALLOCATION OF HETEROGENEOUS DISTRIBUTED SYSTEMS

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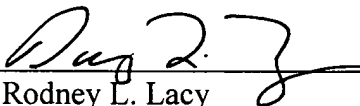
**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 373-6954 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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Date August 24, 2009By   
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 24 day of August, 2009.

Rodney L. Lacy  
Name  
Signature